



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/162655

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on February 24, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare (FS) for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On August 12, 2014 the petitioner applied for FoodShare (FS). The petitioner stated that he was homeless and not working.

3. On August 13, 2014 the agency sent the petitioner a notice stating that he must participate in the food share employment and training program (FSET). The notice explained time limited FS benefits, the exemptions, and the verification requirement for an exemption. Page three of the notice was an exemption form.
4. An FSET case manager spoke to the petitioner on August 13, 2014. The case manager explained that the petitioner needed to provide verification that he was unable to work or his FS benefits were at risk.
5. On August 15, 2014 the agency sent a request for verification of the petitioner's disability.
6. On August 20, 2014 the agency received a letter from pain management stating that the petitioner had a lifting restriction. The letter did not state that the petitioner was disabled or that he could not work.
7. On August 27, 2014 the agency sent another verification request to the petitioner.
8. The agency never received verification that the petitioner was disabled and unable to work. The petitioner stated that he never provided this verification to the agency because he was "in a 22." He went on to explain that although believes he is disabled, the social security administration has denied several of his disability applications, and the doctors have told him that they are unable to provide a letter saying that he is disabled.
9. On November 18, 2014 the agency sent the petitioner a notice stating that his FS case would close effective December 1, 2014 because he received three months of FS benefits and he has failed to meet the work requirements during those three months.
10. On December 15, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2*. This will be implemented statewide as of April 1, 2015. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1*. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age*;
- Able to work;
- Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
- Not pregnant.

...
FSH §3.17.1.4.

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
 - a. Receiving temporary or permanent disability benefits from the government or a private source;
 - b. Mentally or physically unable to work, as determined by the IM agency;

- c. Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;
 3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
 4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
 5. Is a student of higher education and is otherwise eligible for FS ([3.15.1](#));
 6. Is a full-time high school student age 18 or over;
 7. Is receiving Transitional FS benefits; or
 8. Is meeting the ABAWD work requirement.
- FSH §3.17.1.5.*

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
 2. Participating and complying with an allowable work program at least 80 hours per month; * [includes FSET]
 3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
 4. Participating and complying with the requirements of a workfare program.
- FSH, §13.17.1.7.*

If not exempt from work requirements each FoodShare household member must register for work at the time of application and review. *FSH, §3.16.1.4.* As just noted, a person may meet the work requirement by participating in the FoodShare Employment and Training (FSET) program. *FSH, §3.17.1.17.*

In this case the petitioner is considered an able-bodied adult. The petitioner does not dispute that he is between the age of 18 and 49 with no children in his household. The petitioner does not believe that he is able to work, and thus believes that he should meet an exemption. The petitioner admits that the social security administration has found that he is not disabled on multiple occasions. He states that he is appealing their most recent denial. The petitioner has not provided any documentation regarding a disability. This is consistent with the petitioner's statement that he could not obtain a statement from a medical professional stating that he was disabled.

The petitioner further admits that he did not participate in any FSET programming. During this time period the petitioner was attempting to get an exemption, which ultimately he was unable to get. Based upon these facts the agency correctly discontinued Petitioner's FS benefits for failing to meet ABAWD requirements.

CONCLUSIONS OF LAW

The agency correctly discontinued Petitioner's FS benefits for failing to meet ABAWD requirements.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

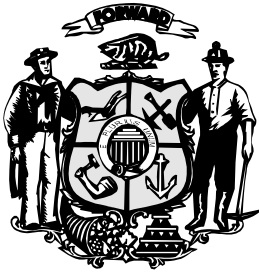
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of February, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 27, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability